

**REMARKS**

Claims 48-85 are in the application. Claims 1-47 are canceled. Claims 48-69 and 78-85 are withdrawn.

In the Office Communication mailed June 29, 2004, the Examiner notified Applicant that a previously submitted Preliminary Amendment was not entered because, according to the Examiner, it claimed three different inventions, denoted (a) through (c), which the Examiner asserts are distinct and independent from the invention previously claimed. Accordingly, the Examiner issued a restriction requirement.

In response, Applicant provisionally elects, with traverse, claims 70-77 from group (b). In response to the Notice of Non-Compliant Amendment mailed August 17, 2004, the claim numbering of the Preliminary Amendment is retained in this Amendment. Accordingly, claims 48-69 and 78-85 are listed as withdrawn, and claims 70-77 are listed as previously presented.

Claims 70-77 are directed to an embodiment of the invention in which a CVD scanning system acquires spectral images of a wafer that are reflected through a viewport disposed within apparatus of the CVD scanning system. Specification, p.6, ln.29-32; and Fig. 3. The CVD scanning system as described in the specification has a much longer focal length and smaller numerical aperture compared to the microscope-based systems, which are referenced in the Background section. This allows the claimed embodiment of the invention to be used effectively when imaging through viewports, as described in the specification on page 6, and as shown clearly in Fig. 3, item 18. Another advantage of the viewport is that it allows imaging to occur during a CVD process while the wafer is disposed within a vacuum process or transfer chamber. Specification, p.6, ln. 24-27.

Applicant respectfully submits that claims 70-77 are directed to an invention that is not separate and distinct from those originally claimed. For example, original claim 7 recites, generally, an apparatus comprising (1) an illuminating means or light source, (2) a spectrometer for receiving light from the light source, (3) a translation mechanism for positioning an illuminated sample relative to the spectrometer, and (4) a means for analyzing signals received from the spectrometer, e.g. a computer or signal processor. All of these elements of the invention are present in claims 70-77. In addition, each of claims 70-77 include a viewport limitation. The viewport is integral to, and cooperates with, the CVD apparatus to direct light

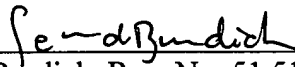
reflected from a wafer to the imaging spectrometer, all of which is fully disclosed in the original specification. In sum, claims 70-77 are not directed to an invention that is separate and distinct from that originally claimed.

In view of the above, Applicant respectfully requests that the Examiner enter this Response, including claims 70-77.

Applicant does not believe that any fees are due for filing this response. If any fees are in fact due, please charge the same to our deposit account number **08-3038** referencing Howrey docket number 02578.0006.00US00.

Respectfully submitted,

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